

114TH CONGRESS  
1ST SESSION

S. 1752

To enhance communication between Federal, State, tribal, and local jurisdictions and to ensure the rapid and effective deportation of certain criminal aliens.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2015

Mr. McCAIN (for himself and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

## A BILL

To enhance communication between Federal, State, tribal, and local jurisdictions and to ensure the rapid and effective deportation of certain criminal aliens.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **3 SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Criminal Alien Depor-  
5 tation Act”.

## 6 SEC. 2. MANDATORY DETENTION AND PROMPT REMOVAL

## **OF CERTAIN CRIMINAL ALIENS.**

8       (a) DETENTION.—Section 236(c) of the Immigration  
9 and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

1                             (1) in paragraph (1)—

2                                 (A) in subparagraph (A), by striking the  
3                                     comma at the end and inserting a semicolon;

4                                 (B) in subparagraph (B), by striking the  
5                                     comma at the end and inserting a semicolon;

6                                 (C) in subparagraph (C), by striking “, or”  
7                                     at the end and inserting a semicolon;

8                                 (D) in subparagraph (D), by striking the  
9                                     comma at the end and inserting “; or”; and

10                                 (E) by inserting after subparagraph (D)  
11                                     the following:

12                                 “(E)(i) is unlawfully present in the United  
13                                     States, as determined by the Secretary of  
14                                     Homeland Security; and

15                                 “(ii) is arrested for any offense described  
16                                     in subparagraphs (A) through (D), the convic-  
17                                     tion of which would render the alien inadmis-  
18                                     sible under section 212(a) or deportable under  
19                                     section 237(a);”; and

20                                 (2) in paragraph (2)—

21                                 (A) by striking “The Attorney General”  
22                                     and inserting the following:

23                                 “(A) IN GENERAL.—Except as provided in  
24                                     subparagraph (C), the Secretary of Homeland  
25                                     Security”;

1                             (B) by striking “Attorney General” each  
2                             place such term appears and inserting “Sec-  
3                             retary”;

4                             (C) by striking “Code, that release” and  
5                             inserting the following: “Code, that—

6                                 “(i) release”;

7                             (D) by striking “investigation, and the  
8                             alien” and inserting the following: “investiga-  
9                             tion; and

10                                 “(ii) the alien”;

11                             (E) by striking “A decision relating to  
12                             such release” and inserting the following:

13                                 “(B) DECISION PROCEDURE.—A decision  
14                             relating to a release under subparagraph (A)”;  
15                             and

16                             (F) by adding at the end the following:

17                                 “(D) ALIENS WHO HAVE BEEN ARRESTED,  
18                             BUT NOT CONVICTED.—The Secretary of Home-  
19                             land Security may release any alien held pursu-  
20                             ant to paragraph (1)(E) to the appropriate au-  
21                             thority for any proceedings subsequent to the  
22                             arrest. The Secretary shall resume custody of  
23                             such alien during any period pending the final  
24                             disposition of any such proceedings when the  
25                             alien is not in the custody of such appropriate

1 authority. If the alien is not convicted of the of-  
2 fense for which the alien was arrested, the Sec-  
3 retary shall continue to detain the alien until  
4 removal proceedings are completed.”.

5 (b) PROMPT REMOVAL.—Section 239(d) of the Immi-  
6 gration and Nationality Act (8 U.S.C. 1229(d)) is amend-  
7 ed by adding at the end the following:

8 “(3) The Secretary of Homeland Security shall  
9 complete removal proceedings for any alien held pur-  
10 suant to section 236(c)(1)(E) not later than 90 days  
11 after such alien is detained.”.

12 **SEC. 3. EMERGENCY IMMIGRATION PERSONNEL.**

13 (a) GOAL.—It shall be the goal of the Attorney Gen-  
14 eral, the Secretary of Homeland Security, and the Direc-  
15 tor of the Executive Office for Immigration Review to use  
16 the amounts appropriated pursuant to subsection (d) to  
17 bring a prompt resolution to immigration cases pertaining  
18 to aliens who are inadmissible under section 212(a)(2) or  
19 237(a)(2) of the Immigration and Nationality Act (8  
20 U.S.C. 1182(a) and 1227(a)).

21 (b) EMERGENCY IMMIGRATION JUDGES.—

22 (1) DESIGNATION.—Not later than 14 days  
23 after the date of the enactment of this Act, the At-  
24 torney General shall designate up to 100 temporary  
25 immigration judges, for renewable 6-month terms,

including by hiring retired immigration judges, magistrate judges, administrative law judges, or other qualified attorneys using the same criteria as applied to the hiring of permanent immigration judges.

9           (c) IMMIGRATION LITIGATION ATTORNEYS.—The  
10 Secretary of Homeland Security shall hire 150 new immi-  
11 gration litigation attorneys in the Field Legal Operations  
12 of U.S. Immigration and Customs Enforcement to ensure  
13 that the goal described in subsection (a) is achieved.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
15 authorized to be appropriated \$100,000,000 to carry out  
16 this section.

17 SEC. 4. SENSE OF THE SENATE REGARDING THE PROSEC-  
18 TION OF FIRST TIME ILLEGAL BORDER  
19 CROSSERS.

20 It is the sense of the Senate that—

21                   (1) gains made in border security and positive  
22 trends in recidivism rates are of critical importance  
23 to those living and working in the border region and  
24 to the Nation as a whole;

1                             (2) refusing to prosecute first time illegal bor-  
2                             der crossers under Operation Streamline will jeop-  
3                             ardize border security gains;

4                             (3) the border security steps that have led to  
5                             some measure of improvement on the border, such  
6                             as the historical implementation of Operation  
7                             Streamline, should be preserved; and

8                             (4) appropriate officials of the executive branch  
9                             should immediately remove any issued or related  
10                           prohibition, policy, guidance, or direction to cease  
11                           prosecuting first time illegal border crossers under  
12                           Operation Streamline.

13 **SEC. 5. REPORTING REQUIREMENTS.**

14                             (a) REPORT REQUIRED.—Not later than 180 days  
15 after the date of the enactment of this Act, and annually  
16 thereafter, the Secretary of Homeland Security shall sub-  
17 mit a report to the Committee on the Judiciary of the Sen-  
18 ate and the Committee on the Judiciary of the House of  
19 Representatives that includes the information specified in  
20 subsection (b).

21                             (b) CONTENTS.—The report required under sub-  
22 section (a) shall describe—

23                                 (1) the number of aliens currently present in  
24 the United States who have ever been arrested for  
25 a criminal offense;

(2) the number of aliens currently present in  
the United States who have ever been convicted of  
a criminal offense;

(A) how many have ever been arrested for  
any criminal offense; and

(B) how many have ever been convicted for  
any criminal offense;

(5) during the previous fiscal year—

(A) the number of aliens who were deported not later than 90 days after being detained by U.S. Immigration and Customs Enforcement, as required under section 239(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1229(d)) and the criminal offenses of such aliens;

(B) of the aliens who should have been deported under such section and were not deported within 90 days of detention—

